

SUPERIOR COURT OF ARIZONA  
MARICOPA COUNTY

CR2013-419619-002 DT

06/02/2016

HON. TERESA SANDERS

CLERK OF THE COURT  
S. Radwanski  
Deputy

STATE OF ARIZONA

MARY-ELLEN WALTER

v.

DARNELL MOSES ALVAREZ (002)

MICHAEL ZIEMBA  
ANNA M UNTERBERGER  
  
CAPITAL CASE MANAGER

MINUTE ENTRY

The Court has read and considered the State's *Motion to Preclude Argument Regarding Residual Doubt*, and the defendant's response.

The Arizona Supreme Court has consistently held that residual doubt does not play any role in the penalty phase of a capital trial. *See, State v. Nordstrom*, 230 Ariz. 110, 115 ¶15, 280 P.3d 1244 (2012) ("A defendant has no constitutional right to present residual doubt evidence at sentencing."); *State v. Speer*, 221 Ariz. 449, 462, ¶68, 212 P.3d 787, 800 (2009) ("The superior court rejected Speer's proposed instruction on residual doubt as a mitigating circumstance and also denied his request to argue residual doubt as a mitigating circumstance. The court acted correctly."); *State v. Dann*, 220 Ariz. 351, ¶136, 207 P.3d 604 (2009) ("Once a person is found guilty beyond a reasonable doubt, claims of residual doubt do not constitute mitigation for sentencing purposes."); *State v. Harrod*, 218 Ariz. 268, ¶¶42-43, 183 P.3d 519 (2008) (no constitutional or statutory right to present residual doubt evidence, including polygraph results and assertions of innocence during allocution); *State v. Andriano*, 215 Ariz. 497, ¶¶44-45, 161 P.3d 540 (2007) ("Both the United States Supreme Court and this Court have rejected the argument that a capital defendant must be allowed to present residual doubt evidence in mitigation."). *See also, Oregon v. Guzek*, 546 U.S. 517 (2006).

IT IS ORDERED granting the State's *Motion to Preclude Argument Regarding Residual Doubt*.